STATE OF MICHIGAN

COURT OF APPEALS

MARY S. FOXWORTH,

Plaintiff-Appellant,

V

RADIO ONE, INC., TAMARA KNECHTEL, and MONICA STARR,

Defendants-Appellees,

and

ALFRED LIGGINS,

Defendant.

UNPUBLISHED
September 30, 2003

No. 240131
Wayne Circuit Court
LC No. 01-132159-CZ

Before: Smolenski, P.J., and Murphy and Wilder, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order granting defendants' motion for summary disposition and compelling arbitration. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Radio One, Inc. hired plaintiff as an on-air personality for a two-year term beginning on October 27, 1999 and ending on October 26, 2001. The parties did not execute a written contract of employment. Prior to commencing her employment plaintiff received a copy of Radio One's personnel manual. Section 10 of the manual, entitled "Employee Acknowledgment and Agreement to Arbitrate," contained a paragraph stating that any claim or controversy arising out of the employment relationship would be submitted to arbitration. Section 113 of the manual, entitled "Employee Complaint Procedure," contained an identical paragraph. Plaintiff signed these sections separately.

Plaintiff was relieved of her duties prior to the expiration of her term of employment. She filed suit alleging defamation and false light, intentional infliction of emotional distress, and disclosure of private facts/invasion of privacy. Defendants moved for summary disposition pursuant to MCR 2.116(C)(7) and to compel arbitration, arguing that plaintiff's claims were subject to arbitration pursuant to the parties' arbitration agreement. In response, plaintiff argued that the agreements failed as a contract because it lacked language of agreement, mutuality of

obligation, and consideration. She also argued that the proffered arbitration language did not apply to the claims against the individual defendants. The trial court granted defendants' motion, finding that an agreement to arbitrate existed and that plaintiff's claims fell within the agreement. Subsequently, the trial court entered a final order dismissing the case in its entirety.

We review a trial court's decision on a motion for summary disposition de novo. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001).

The existence of a contract to arbitrate and the enforceability of its terms is an issue of law for the court. When determining the arbitrability of an issue the court considers whether the parties' contract contains an arbitration provision, whether the disputed issue is arguably within the arbitration clause, and whether the dispute is expressly exempt from the arbitration by the terms of the contract. *Madison Dist Public Schools v Myers*, 247 Mich App 583, 594-595; 637 NW2d 526 (2001).

Plaintiff asserts that the arbitration language in §§ 10 and 113 of the manual does not present an enforceable and binding contract compelling arbitration, and does not specifically include individual defendants within its scope. We disagree and affirm the trial court's decision. Section 10 contained the phrase "Agreement to Arbitrate" in its title. By signing this section and § 113, which contained an identical arbitration clause, plaintiff manifested her agreement to participate in the arbitration process. The arbitration clause contains no language disclaiming an intent to create a contract. Plaintiff signed two separate documents, each of which contained an agreement to submit employment-related claims to arbitration. The trial court correctly found that the signed agreements constituted an enforceable contract. See *Horn v Cooke*, 118 Mich App 740, 744; 325 NW2d 558 (1982).

In *Heurtebise v Reliable Business Computers, Inc*, 452 Mich 405, 413; 550 NW2d 243 (1996), our Supreme Court held that the defendant's employee manual, which contained an arbitration clause, did not create a binding contract to arbitrate in part because the defendant reserved the right to unilaterally modify the policies at any time. However, the instant case is distinguishable from *Heurtebise, supra*. Radio One's employee manual contained a statement that it retained the right to modify policies on a unilateral basis; however, the separate arbitration agreements presented to and signed by plaintiff contained no such statements. By presenting the arbitration agreement in a separate form, Radio One indicated an intent to be bound by the provision. The trial court correctly rejected plaintiff's argument that §§ 10 and 113 did not create a binding contract to arbitrate on the ground that it lacked mutuality of obligation and consideration.

Finally, plaintiff's claims arose directly from and related exclusively to her employment with Radio One. No language in the arbitration clause limits the scope of the clause to contract claims. Other panels of this Court have recognized on many occasions that claims other than contract are appropriate for arbitration. See, e.g., *Rembert v Ryan's Family Steak Houses, Inc*, 235 Mich App 118; 596 NW2d 208 (1999). The claims against the individual defendants were identical to those brought against Radio One. The trial court correctly found that the claims raised in plaintiff's complaint fell within the agreement to arbitrate, and that the claims against the individual defendants were governed by the agreement. *Hetrick v Friedman*, 237 Mich App 264, 267; 602 NW2d 603 (1999).

The trial court correctly determined as a matter of law that the parties had a valid agreement to arbitrate and that the claims raised by plaintiff fell within the agreement. *Madison Dist Public Schools, supra*. Summary disposition was proper.

Affirmed.

/s/ Michael R. Smolenski
/s/ William B. Murphy
/s/ Kurtis T. Wilder